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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/846,157	GOLDMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anh-Vu H. Ly	2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed November 09, 2006.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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## DETAILED ACTION

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lester J. Vincent on December 08, 2006.

The application has been amended as follows:

#### *In The Claims*

4. (Currently Amended) The method of claim 1, wherein the data segments are data types selected from a group consisting of frame relay packet, voice transmission data, internet protocol packet, and ~~or~~ circuit emulation service packet.

10. (Currently Amended) The apparatus of claim 7, wherein the data segments are data types selected from a group consisting of frame relay packet, voice transmission data, internet protocol packet, and ~~or~~ circuit emulation service packet.

13. (Currently Amended) A ~~machine-readable~~ computer-readable medium ~~that provides~~ encoded with executable instructions, which when executed by a ~~processor~~ computer, cause said ~~processor~~ computer to perform a method, the method comprising:

receiving data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having an associated guaranteed percentage of transmission bandwidth;

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marking a portion of the data segments of each class of service corresponding to the associated guaranteed percentage of the transmission bandwidth of the class of service if data transmitted from a class of service exceeds the associated guaranteed percentage of the transmission bandwidth of the class of service, wherein a portion is less than all of the data segments;

marking all of the data segments of each class of service if data transmitted from a class of service is less than the associated guaranteed percentage of the transmission bandwidth of the class of service; and

preferentially transmitting the marked data segments from each class of service.

Claims 14-15 and 17-18, in line 1, replace "The machine-readable medium" with --The computer-readable medium--.

16. (Currently Amended) The ~~machine-readable~~ computer-readable medium of claim 13, wherein the data segments are data types selected from a group consisting of frame relay packet, voice transmission data, internet protocol packet, and ~~or~~ circuit emulation service packet.

19. (Currently Amended) An apparatus comprising:

a receiving device to receive ~~receiving~~ data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having an associated guaranteed percentage of transmission bandwidth;

a marking device to mark ~~marking~~ a portion of the data segments of each class of service corresponding to the associated guaranteed percentage of the transmission bandwidth of the class

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of service if data transmitted from a class of service exceeds the associated guaranteed percentage of the transmission bandwidth of the class of service, wherein a portion is less than all of the data segments;

said marking device to mark ~~marking~~ all of the data segments of each class of service if data transmitted from a class of service is less than the associated guaranteed percentage of the transmission bandwidth of the class of service; and

a transmitting device to preferentially transmit ~~transmitting~~ the marked data segments from each class of service.

20. (Currently Amended) The apparatus of claim 19, wherein the transmitting device is ~~capable of~~ transmitting unmarked data segments from each class of service equally.

22. (Currently Amended) The apparatus of claim 19, wherein the data segments are data types selected from a group consisting of frame relay packet, voice transmission data, internet protocol packet, and ~~or~~ circuit emulation service packet.

***Allowable Subject Matter***

2. Claims 1-24 are allowed.

The following is an examiner's statement of reasons for allowance:

The prior art does not teach or fairly suggest marking a portion of the data segments of each class of service corresponding to the associated guaranteed percentage of the transmission bandwidth of the class of service if data transmitted from a class of service exceeds the associated guaranteed percentage of the transmission bandwidth of the class of service, wherein a portion is less than all of the data segments and marking all of the data segments of each class of service if data transmitted from a class of service is less than the associated guaranteed

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percentage of the transmission bandwidth of the class of service, as specified in independent claims 1, 7, 13, and 19.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H. Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

avl

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER 12/11/06